

## **REMARKS**

### **I. STATUS OF THE CLAIMS**

Claims 1 – 14 and 32 – 34 were pending and were variously rejected under 35 U.S.C. §§ 102 and 103. By amendment herein, claims 1 – 14, 33 and 38 – 46 are pending. Claims 1 and 33 have been amended; claims 15 – 32 and 34 – 37 have been cancelled, without prejudice or disclaimer; and new claims 38 – 46 have been added. The amendments and the new claims are supported throughout the specification, for example, specification at paragraph [0024].

Claim 33 has been amended as suggested by the Examiner at page 5, paragraph 7 of the Office Action mailed on February 3, 2005, indicating that this claim “would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.” Similarly, claim 41 corresponds to the previous claim 7 rewritten to include the elements of the previous claims 1 and 6, again as suggested by the Examiner.

Claim 42 corresponds to previous claim 15, but similarly amended as in the present claim 1 to recite “wherein notifying user comprises switching the display to a screen saver type. In like manner, claim 43 corresponds to previous claim 17; claim 44 corresponds to previous claim 20; claim 45 corresponds to previous claim 36; and claim 46 corresponds to previous claim 37.

No new matter has been added as a result of these amendments, and entry thereof is respectfully requested. Applicants reserve the right to file one or more continuing applications directed to the subject matter of the cancelled claims at any time during the pendency of this application.

### **II. 35 U.S.C. § 102**

The Official Action has rejected claims 1, 3 – 5, 8 and 10 – 14 under 35 U.S.C. § 102(b) as being anticipated by Fateh et al., (“Fateh”), US 6,076,928. Applicants respectfully traverse this rejection as it is not applicable to the present claims. Without conceding the merits of the rejection asserted, Applicants submit that the Official Action has not established that Fateh discloses a “means for automatically notifying user when user is not at a proper viewing distance; wherein the means for notifying user comprises switching the display to a screensaver type,” as presently claimed. Fateh, therefore, is not

applicable as a § 102(b) reference. Applicants respectfully request that rejection of claim 1, 3 – 5, 8 and 10 -14 be withdrawn.

**III. 35 U.S.C. § 103**

A. The Official Action has rejected claim 2 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Fateh in view of Richardson. Again, without conceding the merits of the rejections asserted, Applicants submit that the Official Action has not established that Fateh discloses all the elements of the present claims, as mentioned above. Notably, the Official Action has not established that Fateh discloses or would have suggested a “means for automatically notifying user when user is not at a proper viewing distance; wherein the means for notifying user comprises switching the display to a screensaver type,” as presently claimed. Accordingly, the combination of Fateh and Richardson is defective as § 103 references against the present claims 2 and 9. Applicants respectfully request withdrawal of this §103 rejection of claims 2 and 9 over Fateh and Richardson.

B. The Official Action has rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Fateh in view of Kochanski, US 5,854,661. As pointed out above, Fateh is defective as a §103 reference, as pointed out above, and the combination of Kochanski fails to cure the defect of Fateh as a §103 reference. Hence, this rejection is inapposite to the present claim 6. Applicants respectfully request withdrawal of this §103 rejection of claims 6 and 9 over Fateh and Kochanski.

C. In an Office Action mailed previously on June 29, 2004, the Official Action had rejected claims 15 and 17 under 35 U.S.C. § 103 as being unpatentable over Fateh, asserting that “Fateh teaches an automatic feedback device notifying a user when a user is not in proper position . . . ” (Office Action of June 29, 2004 at page 11) . The now cancelled claim 15 and 17 have been rewritten as claims 42 and 43, respectively. The rejection of the previous claim 15 and 17 is not applicable to the present claims 42 and 43, as the Office Action has not establish that Fateh discloses or would have suggested all the elements of the present claims.

D. Similarly, the Official Action mailed on June 29, 2004 had rejected claims 36 and 37 under 35 U.S.C. § 103 as being unpatentable over Mitchell et al. (“Mitchell”), US 4,832,419, in view of Fateh (Official Action of June 29, 2004 at page 9, paragraph

17). The now cancelled claims 36 and 37 have been rewritten as claims 45 and 46, respectively. In view of the defect of Fateh as mentioned above, Applicants submit that the combination of Mitchell and Fateh does not disclose and would not have suggested all the elements of the present claims 45 and 46.

E. Claims 32 and 34 were rejected under 35 U.S.C. § 103 as being unpatentable over NEC SOFTWARE LTD. ("NEC"), JP 2000-098991. Claims 32 and 34 have been cancelled. Rejection of these claims are, therefore, moot.


#### **IV. ALLOWABLE SUBJECT MATTER**

The Official Action has indicated that claims 7 and 33 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." (Office Action of February 3, 2005 at page 5) Applicants have amended claim 33 accordingly. Applicants have also rewritten the previous claim 7 as an independent claim 41, incorporating the elements of the previous claims 1 and 6.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in a condition for allowance and request early indication of Allowability thereof.

Respectfully submitted,

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